

## DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER RAPER  
COMMISSIONER ANDERSON  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL**

**FROM: EDWARD JEWELL  
DEPUTY ATTORNEY GENERAL**

**DATE: NOVEMBER 13, 2020**

**SUBJECT: IN THE MATTER OF THE FORMAL COMPLAINT OF WOOD HYDRO  
AGAINST IDAHO POWER COMPANY; CASE NO. IPC-E-20-28.**

On June 25, 2020, Wood Hydro, LLC (“Wood Hydro”) filed a formal complaint against Idaho Power Company (“Idaho Power” or “Company”) alleging Idaho Power improperly withheld payments to Wood Hydro under a Firm Energy Sales Agreement (“FESA”) entered into in 1993 for the energy generated by the Mile 28 Hydro Generation Facility (“Mile 28 Hydro”) pursuant to the Commission’s implementation of the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

On July 13, 2020, the Commission issued a Summons to Idaho Power directing the Company to answer within 21 days.

On August 3, 2020, the Company filed an Answer and Cross-Complaint. In its Cross-Complaint, Idaho Power alleged that the Rock Creek #2 QF and Lowline #2 QF had permanently curtailed their generation and owed the Company liquidated damages according to their respective FESA’s.

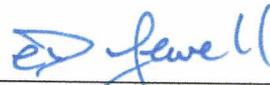
On August 27, 2020, the Commission issued a Notice of Cross-Complaint. Order No. 34764. Concurrently, the Commission issued Summonses to Central Rivers Power US, LLC (“Central Rivers Power”) and Enel Green Power North America, Inc. (“Enel Green Power North America”) on behalf of the Lowline #2 QF and Rock Creek # 2 QF. The Notice and the Summonses set simultaneous 21-day periods to respond to Idaho Power’s Cross-Complaint and Answer.

On September 17, 2020, Central Rivers Power filed a Motion to Dismiss on behalf of Lowline #2. Enel Green Power North America filed a Motion to Dismiss on behalf of Rock Creek #2. Wood Hydro filed a Reply on behalf of Mile 28 Hydro. The matter was fully submitted and with the Commission for deliberation.

On November 9, 2020, Idaho Power filed a Joint Motion to Stay. The Company states the parties “are engaged in settlement discussions that the Parties anticipate will result in a Settlement Stipulation to be submitted to the Commission for its review that would resolve all issues raised in this proceeding, and ask that the Commission grant this stay of proceedings to maintain the present status quo while the Parties finalize the Settlement Stipulation and submit the same to the Commission for its review.” Joint Motion to Stay at 2.

#### COMMISSION DECISION

Does the Commission wish to grant the Joint Motion to Stay and stay the proceedings until a Settlement Stipulation is submitted for Commission review, or until a request to lift the stay of proceedings is filed if settlement negotiations are unsuccessful?



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Edward J. Jewell  
Deputy Attorney General